

REMARKS

The Amendments

The independent claims are amended to recite that the fire retardants are "halogen-free." Support is found at page 1, lines 20-23 of the specification, as pointed out in the Office Action. The independent claims are further amended in the recitation of the polymers for component B. Support for this amendment is found at page 8, line 13, to page 9, line 17.

It is submitted that the above amendments would put the application in condition for allowance or materially reduce or simplify the issues for appeal. The amendments do not raise new issues or present new matter and do not present additional claims. The amendments have been made to render the claim objections and 35 U.S.C. §112 rejection moot. Further, the amendments incorporate some specificity regarding the component B from the dependent claims and the disclosure. It is believed that this latter amendment distinguished the polystyrene-based polymers of the Nishihara reference. It was believed the previous amendment accomplished this purpose but it was not found to do so in the Final action. Thus, this amendment was not earlier presented. Accordingly, it is submitted that the requested amendments should be entered.

To the extent that the amendments avoid the prior art or for other reasons related to patentability, competitors are warned that the amendments are not intended to and do not limit the scope of equivalents which may be asserted on subject matter outside the literal scope of any patented claims but not anticipated or rendered obvious by the prior art or otherwise unpatentable to applicants. Applicants reserve the right to file one or more continuing and/or divisional applications directed to any subject matter disclosed in the application which has been canceled by any of the above amendments.

The Claim Objection

The objection to claims 18, 19, 26 and 27 as being of improper dependent form is believed to be rendered moot by the above amendments. The independent claims now provide clear antecedent basis for the components of these dependent claims.

The Rejection under 35 U.S.C. §112, first paragraph

The rejection of claims 12-31 under 35 U.S.C. §112, first paragraph, is believed to be rendered moot by the above amendments. The claims now specify a "halogen-free fire retardant."

The Rejection under 35 U.S.C. §103

The rejection of claims 12-14, 20, 28 and 31 under 35 U.S.C. §103, as being obvious over Nishihara (U.S. Patent No. 6,093,760) is respectfully traversed.

The claims are now more specified as to the nature of the component B polymer, i.e., now reciting that component B comprises a "homopolymer or copolymer of alpha-olefins and/or diolefins, a metallocene polyethylene, a copolymer of ethylene with a salt or ester of an unsaturated carboxylic acid or a vinyl ester of a saturated carboxylic acid, or one of the above polymers functionalized with an acid, anhydride or epoxy functional group, or one of the above polymers grafted with maleic anhydride or glycidyl methacrylate, the above polymers optionally being crosslinked." Although applicants believed the previous claim language did not encompass the styrene polymers of Nishihara, it is urged that certainly this claim language would not be met or suggested by the styrene-based polymers of Nishihara.

A polymer having the "essential" styrene component in Nishihara, see, e.g., col. 8,

lines 41-48, would not fall within the definition of any of the polymer components for applicants' invention. A styrene-containing polymer is not a homopolymer or copolymer of an alpha-olefin and/or diolefin. Although applicants appreciate the position taken in the Final Office Action that the term "olefins" in its broadest sense could encompass styrene, the terms alpha-olefin and diolefin clearly do not include styrene. See, e.g., the poly- α -olefin definition in the Alger Dictionary cited by the Examiner. Further, styrene is obviously not a polyethylene based polymer nor would it be encompassed by any of the modified polymers recited in applicants' claims. It would appear that this distinction was already recognized in the Final action since claims more particularly reciting the component B polymer, e.g., claims 15-19, were not subject to this prior art rejection.

It is submitted that the application is in condition for allowance. But the Examiner is kindly invited to contact the undersigned to discuss any unresolved matters.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



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